



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
SEATTLE DISTRICT, CORPS OF ENGINEERS
P.O. BOX 3755
SEATTLE, WASHINGTON 98124-3755

Regulatory Branch

September 12, 2020

Mr. Thom Fischer
Electron Hydro, LLC
1800 James Street, Suite 201
Bellingham, Washington 98225

Reference: NWS-2016-350
Electron Hydro, LLC
(Diversion Repair and
Spillway Replacement)

Dear Mr. Fischer:

We have reviewed the information you provided in your email dated, September 5, 2020, related to the work performed on your property located in the Puyallup River near Electron, Pierce County, Washington. As previously mentioned in our letter dated August 7, 2020, you are in violation of your permit.

We appreciate your coordination to develop a site stabilization plan. By letter dated September 11, 2020, Pierce County has lifted their stop work order for a specific list of work they will allow to continue to stabilize the site and minimize potential effects to water quality and fish species within the Puyallup River and the immediate need to regain fish passage at the project site. Based on our understanding that this is the limit of work that will be allowed at the site, the Corps authorizes immediate implementation of the activities described in the enclosed Pierce County letter dated September 11, 2020. We understand you may have concerns about the work outlined in the Pierce County letter. We will continue to work with the County to address any clarification you may need to complete the work as outline.

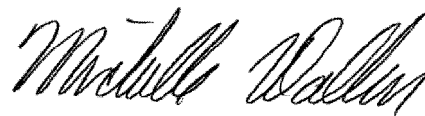
At this time the Corps does not release the Stop Work Order for any work not described above. Any reports or updates submitted to Pierce County should also be copied to the Corps during the allowed construction. Currently your work window closes on September 15, 2020. Should you determine additional time is needed to complete the work outlined by Pierce County and allowed by the Corps, please let us know as soon as possible on what is needed, with the understanding that the work window is in place to minimize impacts on fish species during construction.

Please be reminded that you continue to be out compliance with special conditions "a" and "b" of your Corps permit pertaining to your Endangered Species Act (ESA) Section 7 consultation Biological Opinions (BO) with the National Marine Fisheries Service (NMFS) and

the U. S. Fish and Wildlife Service (USFWS). We recommend you discuss how to minimize impacts to ESA listed species with NMFS and USFWS in anticipation of the Stop Work Order being lifted for the 2021 work window. Please note, we will have to reinitiate Section 7 consultation for the work to resume during the next work in-water window and this coordination will be beneficial in resolving outstanding concerns.

Although we are authorizing the implementation of the activities described in the Pierce County letter dated September 11, 2020, it is important to note this letter is not a permit. We anticipate future ongoing conversations to resume shortly after the work described above is complete regarding continued turf monitoring and removal, restoration and mitigation for impacts that have occurred and your long term plan at the site and paths for lifting the remaining Stop Work order with a revised permit assessment, including continuing the ESA Section 7 consultation. If you have any questions concerning this letter, please contact Ms. Jenae Churchill at jenae.churchill@usace.army.mil or at (206) 764-5527.

Sincerely,

A handwritten signature in black ink, appearing to read "Alexander L. Bullock". The signature is fluid and cursive, with the first name "Alexander" being more prominent than the last name "Bullock".

for Alexander L. Bullock
Colonel, Corps of Engineers
District Engineer

Enclosure